

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Sections 5-1006 and 5-1007 as follows:

6 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

7 Sec. 5-1006. Home Rule County Retailers' Occupation Tax
8 Law. Any county that is a home rule unit may impose a tax upon
9 all persons engaged in the business of selling tangible
10 personal property, other than an item of tangible personal
11 property titled or registered with an agency of this State's
12 government, at retail in the county on the gross receipts from
13 such sales made in the course of their business. If imposed,
14 this tax shall only be imposed in 1/4% increments. If the tax
15 exceeds 0.75% on the effective date of this amendatory Act of
16 the 95th General Assembly, then 60 calendar days after that
17 effective date, the rate reverts to 0.75% by operation of law.
18 If the county board proposes an increase that would cause this
19 tax to be imposed at any rate above 0.75%, then the tax may not
20 be levied until the question of levying the tax has been
21 submitted to the electors of the county at a regular election
22 and approved by a majority of the electors voting on the
23 question. After the adoption of a resolution by the county

1 board for the submission of the question to the electors of the
2 county, the board must certify the question to the proper
3 election authorities. The election authorities must submit the
4 question at an election in accordance with the Election Code.

5 An election authority must submit the question in
6 substantially the following form:

7 Shall the county board of (name of the county) be
8 authorized to levy a retailers' occupation tax and a
9 service occupation tax at the rate of (rate)? The current
10 tax rate is (current rate).

11 The election authority must record the votes as "Yes" or "No".

12 If a majority of the electors voting on the question vote
13 in the affirmative, the county board may thereafter levy the
14 tax up to the rate approved by referendum.

15 On and after September 1, 1991, this additional tax may not
16 be imposed on the sales of food for human consumption which is
17 to be consumed off the premises where it is sold (other than
18 alcoholic beverages, soft drinks and food which has been
19 prepared for immediate consumption) and prescription and
20 nonprescription medicines, drugs, medical appliances and
21 insulin, urine testing materials, syringes and needles used by
22 diabetics. The tax imposed by a home rule county pursuant to
23 this Section and all civil penalties that may be assessed as an
24 incident thereof shall be collected and enforced by the State
25 Department of Revenue. The certificate of registration that is
26 issued by the Department to a retailer under the Retailers'

1 Occupation Tax Act shall permit the retailer to engage in a
2 business that is taxable under any ordinance or resolution
3 enacted pursuant to this Section without registering
4 separately with the Department under such ordinance or
5 resolution or under this Section. The Department shall have
6 full power to administer and enforce this Section; to collect
7 all taxes and penalties due hereunder; to dispose of taxes and
8 penalties so collected in the manner hereinafter provided; and
9 to determine all rights to credit memoranda arising on account
10 of the erroneous payment of tax or penalty hereunder. In the
11 administration of, and compliance with, this Section, the
12 Department and persons who are subject to this Section shall
13 have the same rights, remedies, privileges, immunities, powers
14 and duties, and be subject to the same conditions,
15 restrictions, limitations, penalties and definitions of terms,
16 and employ the same modes of procedure, as are prescribed in
17 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through
18 2-65 (in respect to all provisions therein other than the State
19 rate of tax), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
20 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'
21 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
22 Interest Act, as fully as if those provisions were set forth
23 herein.

24 No tax may be imposed by a home rule county pursuant to
25 this Section unless the county also imposes a tax at the same
26 rate pursuant to Section 5-1007.

1 Persons subject to any tax imposed pursuant to the
2 authority granted in this Section may reimburse themselves for
3 their seller's tax liability hereunder by separately stating
4 such tax as an additional charge, which charge may be stated in
5 combination, in a single amount, with State tax which sellers
6 are required to collect under the Use Tax Act, pursuant to such
7 bracket schedules as the Department may prescribe.

8 Whenever the Department determines that a refund should be
9 made under this Section to a claimant instead of issuing a
10 credit memorandum, the Department shall notify the State
11 Comptroller, who shall cause the order to be drawn for the
12 amount specified and to the person named in the notification
13 from the Department. The refund shall be paid by the State
14 Treasurer out of the home rule county retailers' occupation tax
15 fund.

16 The Department shall forthwith pay over to the State
17 Treasurer, ex officio, as trustee, all taxes and penalties
18 collected hereunder. On or before the 25th day of each calendar
19 month, the Department shall prepare and certify to the
20 Comptroller the disbursement of stated sums of money to named
21 counties, the counties to be those from which retailers have
22 paid taxes or penalties hereunder to the Department during the
23 second preceding calendar month. The amount to be paid to each
24 county shall be the amount (not including credit memoranda)
25 collected hereunder during the second preceding calendar month
26 by the Department plus an amount the Department determines is

1 necessary to offset any amounts that were erroneously paid to a
2 different taxing body, and not including an amount equal to the
3 amount of refunds made during the second preceding calendar
4 month by the Department on behalf of such county, and not
5 including any amount which the Department determines is
6 necessary to offset any amounts which were payable to a
7 different taxing body but were erroneously paid to the county.
8 Within 10 days after receipt, by the Comptroller, of the
9 disbursement certification to the counties provided for in this
10 Section to be given to the Comptroller by the Department, the
11 Comptroller shall cause the orders to be drawn for the
12 respective amounts in accordance with the directions contained
13 in the certification.

14 In addition to the disbursement required by the preceding
15 paragraph, an allocation shall be made in March of each year to
16 each county that received more than \$500,000 in disbursements
17 under the preceding paragraph in the preceding calendar year.
18 The allocation shall be in an amount equal to the average
19 monthly distribution made to each such county under the
20 preceding paragraph during the preceding calendar year
21 (excluding the 2 months of highest receipts). The distribution
22 made in March of each year subsequent to the year in which an
23 allocation was made pursuant to this paragraph and the
24 preceding paragraph shall be reduced by the amount allocated
25 and disbursed under this paragraph in the preceding calendar
26 year. The Department shall prepare and certify to the

1 Comptroller for disbursement the allocations made in
2 accordance with this paragraph.

3 For the purpose of determining the local governmental unit
4 whose tax is applicable, a retail sale by a producer of coal or
5 other mineral mined in Illinois is a sale at retail at the
6 place where the coal or other mineral mined in Illinois is
7 extracted from the earth. This paragraph does not apply to coal
8 or other mineral when it is delivered or shipped by the seller
9 to the purchaser at a point outside Illinois so that the sale
10 is exempt under the United States Constitution as a sale in
11 interstate or foreign commerce.

12 Nothing in this Section shall be construed to authorize a
13 county to impose a tax upon the privilege of engaging in any
14 business which under the Constitution of the United States may
15 not be made the subject of taxation by this State.

16 An ordinance or resolution imposing or discontinuing a tax
17 hereunder or effecting a change in the rate thereof shall be
18 adopted and a certified copy thereof filed with the Department
19 on or before the first day of June, whereupon the Department
20 shall proceed to administer and enforce this Section as of the
21 first day of September next following such adoption and filing.
22 Beginning January 1, 1992, an ordinance or resolution imposing
23 or discontinuing the tax hereunder or effecting a change in the
24 rate thereof shall be adopted and a certified copy thereof
25 filed with the Department on or before the first day of July,
26 whereupon the Department shall proceed to administer and

1 enforce this Section as of the first day of October next
2 following such adoption and filing. Beginning January 1, 1993,
3 an ordinance or resolution imposing or discontinuing the tax
4 hereunder or effecting a change in the rate thereof shall be
5 adopted and a certified copy thereof filed with the Department
6 on or before the first day of October, whereupon the Department
7 shall proceed to administer and enforce this Section as of the
8 first day of January next following such adoption and filing.
9 Beginning April 1, 1998, an ordinance or resolution imposing or
10 discontinuing the tax hereunder or effecting a change in the
11 rate thereof shall either (i) be adopted and a certified copy
12 thereof filed with the Department on or before the first day of
13 April, whereupon the Department shall proceed to administer and
14 enforce this Section as of the first day of July next following
15 the adoption and filing; or (ii) be adopted and a certified
16 copy thereof filed with the Department on or before the first
17 day of October, whereupon the Department shall proceed to
18 administer and enforce this Section as of the first day of
19 January next following the adoption and filing.

20 When certifying the amount of a monthly disbursement to a
21 county under this Section, the Department shall increase or
22 decrease such amount by an amount necessary to offset any
23 misallocation of previous disbursements. The offset amount
24 shall be the amount erroneously disbursed within the previous 6
25 months from the time a misallocation is discovered.

26 This Section shall be known and may be cited as the Home

1 Rule County Retailers' Occupation Tax Law.

2 This Section is a denial and limitation of home rule powers
3 to tax and other powers and functions under subsection (g) of
4 Section 6 of Article VII of the Illinois Constitution.

5 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

6 (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

7 Sec. 5-1007. Home Rule County Service Occupation Tax Law.

8 The corporate authorities of a home rule county may impose a
9 tax upon all persons engaged, in such county, in the business
10 of making sales of service at the same rate of tax imposed
11 pursuant to Section 5-1006 of the selling price of all tangible
12 personal property transferred by such servicemen either in the
13 form of tangible personal property or in the form of real
14 estate as an incident to a sale of service. If imposed, such
15 tax shall only be imposed in 1/4% increments. If the tax
16 exceeds 0.75% on the effective date of this amendatory Act of
17 the 95th General Assembly, then 60 calendar days after that
18 effective date, the rate reverts to 0.75% by operation of law.
19 If the county board proposes an increase that would cause this
20 tax to be imposed at any rate above 0.75%, then the tax may not
21 be levied until the question of levying the tax has been
22 submitted to the electors of the county at a regular election
23 and approved by a majority of the electors voting on the
24 question. After the adoption of a resolution by the county
25 board for the submission of the question to the electors of the

1 county, the board must certify the question to the proper
2 election authorities. The election authorities must submit the
3 question at an election in accordance with the Election Code.

4 An election authority must submit the question in
5 substantially the following form:

6 Shall the county board of (name of the county) be
7 authorized to levy a retailers' occupation tax and a
8 service occupation tax at the rate of (rate)? The current
9 tax rate is (current rate).

10 The election authority must record the votes as "Yes" or "No".

11 If a majority of the electors voting on the question vote
12 in the affirmative, the county board may thereafter levy the
13 tax up to the rate approved by referendum.

14 On and after September 1, 1991, this additional tax may not
15 be imposed on the sales of food for human consumption which is
16 to be consumed off the premises where it is sold (other than
17 alcoholic beverages, soft drinks and food which has been
18 prepared for immediate consumption) and prescription and
19 nonprescription medicines, drugs, medical appliances and
20 insulin, urine testing materials, syringes and needles used by
21 diabetics. The tax imposed by a home rule county pursuant to
22 this Section and all civil penalties that may be assessed as an
23 incident thereof shall be collected and enforced by the State
24 Department of Revenue. The certificate of registration which is
25 issued by the Department to a retailer under the Retailers'
26 Occupation Tax Act or under the Service Occupation Tax Act

1 shall permit such registrant to engage in a business which is
2 taxable under any ordinance or resolution enacted pursuant to
3 this Section without registering separately with the
4 Department under such ordinance or resolution or under this
5 Section. The Department shall have full power to administer and
6 enforce this Section; to collect all taxes and penalties due
7 hereunder; to dispose of taxes and penalties so collected in
8 the manner hereinafter provided; and to determine all rights to
9 credit memoranda arising on account of the erroneous payment of
10 tax or penalty hereunder. In the administration of, and
11 compliance with, this Section the Department and persons who
12 are subject to this Section shall have the same rights,
13 remedies, privileges, immunities, powers and duties, and be
14 subject to the same conditions, restrictions, limitations,
15 penalties and definitions of terms, and employ the same modes
16 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
17 through 3-50 (in respect to all provisions therein other than
18 the State rate of tax), 4 (except that the reference to the
19 State shall be to the taxing county), 5, 7, 8 (except that the
20 jurisdiction to which the tax shall be a debt to the extent
21 indicated in that Section 8 shall be the taxing county), 9
22 (except as to the disposition of taxes and penalties collected,
23 and except that the returned merchandise credit for this county
24 tax may not be taken against any State tax), 10, 11, 12 (except
25 the reference therein to Section 2b of the Retailers'
26 Occupation Tax Act), 13 (except that any reference to the State

1 shall mean the taxing county), the first paragraph of Section
2 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
3 Section 3-7 of the Uniform Penalty and Interest Act, as fully
4 as if those provisions were set forth herein.

5 No tax may be imposed by a home rule county pursuant to
6 this Section unless such county also imposes a tax at the same
7 rate pursuant to Section 5-1006.

8 Persons subject to any tax imposed pursuant to the
9 authority granted in this Section may reimburse themselves for
10 their serviceman's tax liability hereunder by separately
11 stating such tax as an additional charge, which charge may be
12 stated in combination, in a single amount, with State tax which
13 servicemen are authorized to collect under the Service Use Tax
14 Act, pursuant to such bracket schedules as the Department may
15 prescribe.

16 Whenever the Department determines that a refund should be
17 made under this Section to a claimant instead of issuing credit
18 memorandum, the Department shall notify the State Comptroller,
19 who shall cause the order to be drawn for the amount specified,
20 and to the person named, in such notification from the
21 Department. Such refund shall be paid by the State Treasurer
22 out of the home rule county retailers' occupation tax fund.

23 The Department shall forthwith pay over to the State
24 Treasurer, ex-officio, as trustee, all taxes and penalties
25 collected hereunder. On or before the 25th day of each calendar
26 month, the Department shall prepare and certify to the

1 Comptroller the disbursement of stated sums of money to named
2 counties, the counties to be those from which suppliers and
3 servicemen have paid taxes or penalties hereunder to the
4 Department during the second preceding calendar month. The
5 amount to be paid to each county shall be the amount (not
6 including credit memoranda) collected hereunder during the
7 second preceding calendar month by the Department, and not
8 including an amount equal to the amount of refunds made during
9 the second preceding calendar month by the Department on behalf
10 of such county. Within 10 days after receipt, by the
11 Comptroller, of the disbursement certification to the counties
12 provided for in this Section to be given to the Comptroller by
13 the Department, the Comptroller shall cause the orders to be
14 drawn for the respective amounts in accordance with the
15 directions contained in such certification.

16 In addition to the disbursement required by the preceding
17 paragraph, an allocation shall be made in each year to each
18 county which received more than \$500,000 in disbursements under
19 the preceding paragraph in the preceding calendar year. The
20 allocation shall be in an amount equal to the average monthly
21 distribution made to each such county under the preceding
22 paragraph during the preceding calendar year (excluding the 2
23 months of highest receipts). The distribution made in March of
24 each year subsequent to the year in which an allocation was
25 made pursuant to this paragraph and the preceding paragraph
26 shall be reduced by the amount allocated and disbursed under

1 this paragraph in the preceding calendar year. The Department
2 shall prepare and certify to the Comptroller for disbursement
3 the allocations made in accordance with this paragraph.

4 Nothing in this Section shall be construed to authorize a
5 county to impose a tax upon the privilege of engaging in any
6 business which under the Constitution of the United States may
7 not be made the subject of taxation by this State.

8 An ordinance or resolution imposing or discontinuing a tax
9 hereunder or effecting a change in the rate thereof shall be
10 adopted and a certified copy thereof filed with the Department
11 on or before the first day of June, whereupon the Department
12 shall proceed to administer and enforce this Section as of the
13 first day of September next following such adoption and filing.
14 Beginning January 1, 1992, an ordinance or resolution imposing
15 or discontinuing the tax hereunder or effecting a change in the
16 rate thereof shall be adopted and a certified copy thereof
17 filed with the Department on or before the first day of July,
18 whereupon the Department shall proceed to administer and
19 enforce this Section as of the first day of October next
20 following such adoption and filing. Beginning January 1, 1993,
21 an ordinance or resolution imposing or discontinuing the tax
22 hereunder or effecting a change in the rate thereof shall be
23 adopted and a certified copy thereof filed with the Department
24 on or before the first day of October, whereupon the Department
25 shall proceed to administer and enforce this Section as of the
26 first day of January next following such adoption and filing.

1 Beginning April 1, 1998, an ordinance or resolution imposing or
2 discontinuing the tax hereunder or effecting a change in the
3 rate thereof shall either (i) be adopted and a certified copy
4 thereof filed with the Department on or before the first day of
5 April, whereupon the Department shall proceed to administer and
6 enforce this Section as of the first day of July next following
7 the adoption and filing; or (ii) be adopted and a certified
8 copy thereof filed with the Department on or before the first
9 day of October, whereupon the Department shall proceed to
10 administer and enforce this Section as of the first day of
11 January next following the adoption and filing.

12 This Section shall be known and may be cited as the Home
13 Rule County Service Occupation Tax Law.

14 This Section is a denial and limitation of home rule powers
15 to tax and other powers and functions under subsection (g) of
16 Section 6 of Article VII of the Illinois Constitution.

17 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.